

## § 37.5

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and Department of Justice Reauthorization Act of 2005 (Pub. L. 109–162, 119 Stat. 2960, 2964, Jan. 5, 2006); codified at section 40002, Definitions and grant provisions, 42 U.S.C. 13925, or State laws addressing sexual assault and stalking.

*Source document(s)* means original or certified copies (where applicable) of documents presented by an applicant as required under these regulations to the Department of Motor Vehicles to apply for a driver's license or identification card.

*State* means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

*State address confidentiality program* means any State-authorized or State-administered program that—

(1) Allows victims of domestic violence, dating violence, sexual assault, stalking, or a severe form of trafficking to keep, obtain, and use alternative addresses; or

(2) Provides confidential record-keeping regarding the addresses of such victims or other categories of persons.

*Temporary lawful status*: A person in temporary lawful status is a person who: has a valid nonimmigrant status in the United States; has a pending application for asylum in the United States; has a pending or approved application for temporary protected status (TPS) in the United States; has approved deferred action status; or has a pending application for LPR or conditional permanent resident status.

*Verify* means procedures to ensure that:

(1) The source document is genuine and has not been altered (i.e., “document authentication”); and

(2) The identity data contained on the document is valid (“data verification”).

### § 37.5 Validity periods and deadlines for REAL ID driver's licenses and identification cards.

(a) Driver's licenses and identification cards issued under this part, that are not temporary or limited-term driver's licenses and identification cards, are valid for a period not to ex-

ceed eight years. A card may be valid for a shorter period based on other State or Federal requirements.

(b) On or after December 1, 2014, Federal agencies shall not accept a driver's license or identification card for official purposes from individuals born after December 1, 1964, unless such license or card is a REAL ID-compliant driver's license or identification card issued by a State that has been determined by DHS to be in full compliance as defined under this subpart.

(c) On or after December 1, 2017, Federal agencies shall not accept a driver's license or identification card for official purposes from any individual unless such license or card is a REAL ID-compliant driver's license or identification card issued by a State that has been determined by DHS to be in full compliance as defined under this subpart.

(d) Federal agencies cannot accept for official purpose driver's licenses and identification cards issued under § 37.71 of this rule.

### Subpart B—Minimum Documentation, Verification, and Card Issuance Requirements

#### § 37.11 Application and documents the applicant must provide.

(a) The State must subject each person applying for a REAL ID driver's license or identification card to a mandatory facial image capture, and shall maintain photographs of individuals even if no card is issued. The photographs must be stored in a format in accordance with § 37.31 as follows:

(1) If no card is issued, for a minimum period of five years.

(2) If a card is issued, for a period of at least two years beyond the expiration date of the card.

(b) *Declaration*. Each applicant must sign a declaration under penalty of perjury that the information presented on the application is true and correct, and the State must retain this declaration. An applicant must sign a new declaration when presenting new source documents to the DMV on subsequent visits.

(c) *Identity*. (1) To establish identity, the applicant must present at least one of the following source documents:

- (i) Valid, unexpired U.S. passport.
  - (ii) Certified copy of a birth certificate filed with a State Office of Vital Statistics or equivalent agency in the individual's State of birth.
  - (iii) Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State, Form FS-240, DS-1350 or FS-545.
  - (iv) Valid, unexpired Permanent Resident Card (Form I-551) issued by DHS or INS.
  - (v) Unexpired employment authorization document (EAD) issued by DHS, Form I-766 or Form I-688B.
  - (vi) Unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States.
  - (vii) Certificate of Naturalization issued by DHS, Form N-550 or Form N-570.
  - (viii) Certificate of Citizenship, Form N-560 or Form N-561, issued by DHS.
  - (ix) REAL ID driver's license or identification card issued in compliance with the standards established by this part.
  - (x) Such other documents as DHS may designate by notice published in the FEDERAL REGISTER.
- (2) Where a State permits an applicant to establish a name other than the name that appears on a source document (for example, through marriage, adoption, court order, or other mechanism permitted by State law or regulation), the State shall require evidence of the name change through the presentation of documents issued by a court, governmental body or other entity as determined by the State. The State shall maintain copies of the documentation presented pursuant to § 37.31, and maintain a record of both the recorded name and the name on the source documents in a manner to be determined by the State and in conformity with § 37.31.
- (d) *Date of birth.* To establish date of birth, an individual must present at least one document included in paragraph (c) of this section.
- (e) *Social security number (SSN).* (1) Except as provided in paragraph (e)(3) of this section, individuals presenting the identity documents listed in

§ 37.11(c)(1) and (2) must present his or her Social Security Administration account number card; or, if a Social Security Administration account card is not available, the person may present any of the following documents bearing the applicant's SSN:

- (i) A W-2 form,
- (ii) A SSA-1099 form,
- (iii) A non-SSA-1099 form, or
- (iv) A pay stub with the applicant's name and SSN on it.

(2) The State DMV must verify the SSN pursuant to § 37.13(b)(2) of this subpart.

(3) Individuals presenting the identity document listed in § 37.11(c)(1)(vi) must present an SSN or demonstrate non-work authorized status.

(f) *Documents demonstrating address of principal residence.* To document the address of principal residence, a person must present at least two documents of the State's choice that include the individual's name and principal residence. A street address is required except as provided in § 37.17(f) of this part.

(g) *Evidence of lawful status in the United States.* A DMV may issue a REAL ID driver's license or identification card only to a person who has presented satisfactory evidence of lawful status.

(1) If the applicant presents one of the documents listed under paragraphs (c)(1)(i), (c)(1)(ii), (c)(1)(iii), (c)(1)(iv), (c)(1)(vii) or (c)(1)(viii) of this section, the issuing State's verification of the applicant's identity in the manner prescribed in § 37.13 will also provide satisfactory evidence of lawful status.

(2) If the applicant presents one of the identity documents listed under paragraphs (c)(1)(v) or (c)(1)(vi), or (c)(1)(ix) of this section, the issuing State's verification of the identity document(s) does not provide satisfactory evidence of lawful status. The applicant must also present a second document from § 37.11(g)(1) or documentation issued by DHS or other Federal agencies demonstrating lawful status as determined by USCIS. All documents shall be verified in the manner prescribed in § 37.13.

(h) *Exceptions Process.* A State DMV may choose to establish a written, defined exceptions process for persons

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who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate documents to establish identity or date of birth. Alternative documents to demonstrate lawful status will only be allowed to demonstrate U.S. citizenship.

(1) Each State establishing an exceptions process must make reasonable efforts to establish the authenticity of alternate documents each time they are presented and indicate that an exceptions process was used in the applicant's record.

(2) The State shall retain copies or images of the alternate documents accepted pursuant to § 37.31 of this part.

(3) The State shall conduct a review of the use of the exceptions process, and pursuant to subpart E of this part, prepare and submit a report with a copy of the exceptions process as part of the certification documentation detailed in § 37.55.

(i) States are not required to comply with these requirements when issuing REAL ID driver's licenses or identification cards in support of Federal, State, or local criminal justice agencies or other programs that require special licensing or identification to safeguard persons or in support of their other official duties. As directed by appropriate officials of these Federal, State, or local agencies, States should take sufficient steps to safeguard the identities of such persons. Driver's licenses and identification cards issued in support of Federal, State, or local criminal justice agencies or programs that require special licensing or identification to safeguard persons or in support of their other official duties shall not be distinguishable from other REAL ID licenses or identification cards issued by the State.

#### **§ 37.13 Document verification requirements.**

(a) States shall make reasonable efforts to ensure that the applicant does not have more than one driver's license or identification card already issued by that State under a different identity. In States where an individual is permitted to hold both a driver's license and identification card, the State shall ensure that the individual has not been issued identification documents in

multiple or different names. States shall also comply with the provisions of § 37.29 before issuing a driver's license or identification card.

(b) States must verify the documents and information required under § 37.11 with the issuer of the document. States shall use systems for electronic validation of document and identity data as they become available or use alternative methods approved by DHS.

(1) States shall verify any document described in § 37.11(c) or (g) and issued by DHS (including, but not limited to, the I-94 form described in § 37.11(c)(vi)) through the Systematic Alien Verification for Entitlements (SAVE) system or alternate methods approved by DHS, except that if two DHS-issued documents are presented, a SAVE verification of one document that confirms lawful status does not need to be repeated for the second document. In the event of a non-match, the DMV must not issue a REAL ID driver's license or identification card to an applicant, and must refer the individual to U.S. Citizenship and Immigration Services for resolution.

(2) States must verify SSNs with the Social Security Administration (SSA) or through another method approved by DHS. In the event of a non-match with SSA, a State may use existing procedures to resolve non-matches. If the State is unable to resolve the non-match, and the use of an exceptions process is not warranted in the situation, the DMV must not issue a REAL ID driver's license or identification card to an applicant until the information verifies with SSA.

(3) States must verify birth certificates presented by applicants. States should use the Electronic Verification of Vital Events (EVVE) system or other electronic systems whenever the records are available. If the document does not appear authentic upon inspection or the data does not match and the use of an exceptions process is not warranted in the situation, the State must not issue a REAL ID driver's license or identification card to the applicant until the information verifies, and should refer the individual to the issuing office for resolution.

(4) States shall verify documents issued by the Department of State with